

## Environmental Protection Agency

## § 132.5

(2) Apply the implementation procedures in appendix F of this part or alternative procedures consistent with all applicable Federal, State, and Tribal laws.

(h) For any pollutant other than those in Table 5 of this part for which the State or Tribe demonstrates that a methodology or procedure in this part is not scientifically defensible, the Great Lakes States and Tribes shall:

(1) Apply an alternative methodology or procedure acceptable under 40 CFR part 131 when developing water quality criteria; or

(2) Apply an alternative implementation procedure that is consistent with all applicable Federal, State, and Tribal laws.

(i) Nothing in this part shall prohibit the Great Lakes States and Tribes from adopting numeric water quality criteria, narrative criteria, or water quality values that are more stringent than criteria or values specified in § 132.3 or that would be derived from application of the methodologies set forth in appendixes A, B, C, and D of this part, or to adopt antidegradation standards and implementation procedures more stringent than those set forth in appendixes E and F of this part.

### § 132.5 Procedures for adoption and EPA review.

(a) Except as provided in paragraph (c) of this section, the Great Lakes States and Tribes shall adopt and submit for EPA review and approval the criteria, methodologies, policies, and procedures developed pursuant to this part no later than September 23, 1996. With respect to procedure 3.C of appendix F of this part, each Great Lakes State and Tribe shall make its submission to EPA no later than May 13, 2002.

(b) The following elements must be included in each submission to EPA for review:

(1) The criteria, methodologies, policies, and procedures developed pursuant to this part;

(2) Certification by the Attorney General or other appropriate legal authority pursuant to 40 CFR 123.62 and 40 CFR 131.6(e) as appropriate;

(3) All other information required for submission of National Pollutant Dis-

charge Elimination System (NPDES) program modifications under 40 CFR 123.62; and

(4) General information which will aid EPA in determining whether the criteria, methodologies, policies and procedures are consistent with the requirements of the Clean Water Act and this part, as well as information on general policies which may affect their application and implementation.

(c) The Regional Administrator may extend the deadline for the submission required in paragraph (a) of this section if the Regional Administrator believes that the submission will be consistent with the requirements of this part and can be reviewed and approved pursuant to this section no later than March 23, 1997, or, for procedure 3.C of appendix F of this part, no later than November 13, 2002.

(d) If a Great Lakes State or Tribe makes no submission pursuant to this part to EPA for review, the requirements of this part shall apply to discharges to waters of the Great Lakes System located within the State or Federal Indian reservation upon EPA's publication of a final rule indicating the effective date of the part 132 requirements in the identified jurisdictions.

(e) If a Great Lakes State or Tribe submits criteria, methodologies, policies, and procedures pursuant to this part to EPA for review that contain substantial modifications of the State or Tribal NPDES program, EPA shall issue public notice and provide a minimum of 30 days for public comment on such modifications. The public notice shall conform with the requirements of 40 CFR 123.62.

(f) After review of State or Tribal submissions under this section, and following the public comment period in subparagraph (e) of this section, if any, EPA shall either:

(1) Publish notice of approval of the submission in the FEDERAL REGISTER within 90 days of such submission; or

(2) Notify the State or Tribe within 90 days of such submission that EPA has determined that all or part of the submission is inconsistent with the requirements of the Clean Water Act or this part and identify any necessary changes to obtain EPA approval. If the

State or Tribe fails to adopt such changes within 90 days after the notification, EPA shall publish a notice in the FEDERAL REGISTER identifying the approved and disapproved elements of the submission and a final rule in the FEDERAL REGISTER identifying the provisions of part 132 that shall apply to discharges within the State or Federal Indian reservation.

(g) EPA's approval or disapproval of a State or Tribal submission shall be based on the requirements of this part and of the Clean Water Act. EPA's determination whether the criteria, methodologies, policies, and procedures in a State or Tribal submission are consistent with the requirements of this part will be based on whether:

(1) *For pollutants listed in Tables 1, 2, 3, and 4 of this part.* The Great Lakes State or Tribe has adopted numeric water quality criteria as protective as each of the numeric criteria in Tables 1, 2, 3, and 4 of this part, taking into account any site-specific criteria modifications in accordance with procedure 1 of appendix F of this part;

(2) *For pollutants other than those listed in Tables 1, 2, 3, 4, and 5 of this part.* The Great Lakes State or Tribe demonstrates that either:

(i) It has adopted numeric criteria in its water quality standards that were derived, or are as protective as or more protective than could be derived, using the methodologies in appendixes A, B, C, and D of this part, and the site-specific criteria modification procedures in accordance with procedure 1 of appendix F of this part; or

(ii) It has adopted a procedure by which water quality-based effluent limits and total maximum daily loads are developed using the more protective of:

(A) Numeric criteria adopted by the State into State water quality standards and approved by EPA prior to March 23, 1997; or

(B) Water quality criteria and values derived pursuant to §132.4(c); and

(3) *For methodologies, policies, and procedures.* The Great Lakes State or Tribe has adopted methodologies, policies, and procedures as protective as the corresponding methodology, policy, or procedure in §132.4. The Great Lakes State or Tribe may adopt provisions that are more protective than those

contained in this part. Adoption of a more protective element in one provision may be used to offset a less protective element in the same provision as long as the adopted provision is as protective as the corresponding provision in this part; adoption of a more protective element in one provision, however, is not justification for adoption of a less protective element in another provision of this part.

(h) A submission by a Great Lakes State or Tribe will need to include any provisions that EPA determines, based on EPA's authorities under the Clean Water Act and the results of consultation under section 7 of the Endangered Species Act, are necessary to ensure that water quality is not likely to jeopardize the continued existence of any endangered or threatened species listed under section 4 of the Endangered Species Act or result in the destruction or adverse modification of such species' critical habitat.

(i) EPA's approval of the elements of a State's or Tribe's submission will constitute approval under section 118 of the Clean Water Act, approval of the submitted water quality standards pursuant to section 303 of the Clean Water Act, and approval of the submitted modifications to the State's or Tribe's NPDES program pursuant to section 402 of the Clean Water Act.

[60 FR 15387, Mar. 23, 1995, as amended at 65 FR 67650, Nov. 13, 2000]

#### **§ 132.6 Application of part 132 requirements in Great Lakes States and Tribes.**

(a) Effective September 5, 2000, the requirements of Paragraph C.1 of Procedure 2 in Appendix F of this Part and the requirements of paragraph F.2 of Procedure 5 in appendix F of this Part shall apply to discharges within the Great Lakes System in the State of Indiana.

(b) Effective September 5, 2000, the requirements of Procedure 3 in appendix F of this Part shall apply for purposes of developing total maximum daily loads in the Great Lakes System in the State of Illinois.

(c) Effective September 5, 2000, the requirements of Paragraphs C.1 and D of Procedure 6 in appendix F of this Part shall apply to discharges within